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1 A bill to be entitled
2 An act relating to seaport security; amending s. 311.12,
3 F.S.; providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:

6 Section 1. Section 311.111, Florida Statutes is created to
7 read:

8 311.111 Security area designations; access requirements,
9 authority.-- Each seaport authority or governing board of a
10 seaport identified in s. 311.09 which is subject to the statewide
11 minimum seaport security standards in s. 311.12, shall designate
12 and clearly mark on the seaport premises and in the seaport
13 security plans, the following security area designations, access
14 requirements and corresponding security enforcement
15 authorizations including, but not limited to, the prohibition of
16 concealed weapons and other contraband material:

17 (1) Unrestricted, public access areas, open to the general
18 public without a seaport identification card other than that
19 required as a condition of employment by a seaport director.

20 (2) Restricted public access areas, open to the public for
21 a specific purpose via restricted access, and open to individuals
22 working on the seaport, seaport employees or guests who have
23 business with the seaport. Any person found in these areas
24 without the proper level identification card will be subject to
25 the trespass provisions of sections 810.08, 810.09, and this
26 chapter. All persons and objects in these areas are subject to
27 search by an on duty sworn state certified law enforcement
28 officer, a Class D seaport officer certified under Maritime
29 Transportation Security Act guidelines or an employee of the

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seaport security force certified under the Maritime
Transportation Security Act guidelines.

(3) Restricted access areas, open only to individuals
working on the seaport, seaport employees or guests who have
business with the seaport. Any person found in these areas
without the proper level identification card will be subject to
the trespass provisions of sections 810.08, 810.09, and this
chapter. All persons and objects in these areas are subject to
search by an on duty sworn state certified law enforcement
officer, a Class D seaport officer certified under Maritime
Transportation Security Act guidelines or an employee of the
seaport security force certified under the Maritime
Transportation Security Act guidelines.

(4) Secured, restricted access areas, open only to
individuals working on the seaport, seaport employees or guests
who have business with the seaport, that are secured at each
point of access by a Maritime Transportation Security Act
certified Class D security guard, a sworn state certified law
enforcement officer, or a Maritime Transportation Security Act
certified employee of the port's security force at all times.
Any person found in these areas without the proper level
identification card will be subject to the trespass provisions of
sections 810.08, 810.09, and this chapter. All persons and
objects in these areas are subject to search by an on duty Class
D seaport officer certified under Maritime Transportation
Security Act guidelines, sworn state certified law enforcement
officer, or an employee of the seaport security force certified
under the Maritime Transportation Security Act guidelines.

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58 (5) During a high terrorist threat level period designated
59 by the United States Department of Homeland Security or the
60 Florida Department of Law Enforcement, or during an emergency
61 declared by the seaport security director of a port due to events
62 applicable to that particular port, the management or controlling
63 authority of the port may temporarily designate any part of the
64 port property as a restricted access area. The duration of such
65 designation is limited to the period when the high terrorist
66 threat level or port emergency exists. This subsection does not
67 limit the power of the managing or controlling authority of a
68 seaport to designate any port property as a restricted access
69 area as otherwise provided by law.

70 Section 2. Subsection (2), and paragraph (b) of subsection
71 (4) of section 311.12, Florida Statutes, are amended to read:

72 311.12 Seaport security standards; inspections; compliance;
73 appeals.--

74 (2)(a) Each seaport identified in s. 311.09 shall maintain
75 a security plan to provide for a secure seaport infrastructure
76 specific to his or her seaport. Commencing January 1, 2007, and
77 every five years thereafter, the Seaport Director of each seaport
78 with the assistance of the Regional Domestic Security Task Force
79 and in conjunction with the United States Coast Guard, will
80 revise their security plan based on the results of continual,
81 quarterly assessments by the seaport director of security risks
82 and possible risks related to terrorist activities and relating
83 ~~to the specific and identifiable needs of the seaport which~~
84 ~~assures that the seaport is in substantial compliance with the~~
85 statewide minimum standards established pursuant to subsection
86 (1).

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87 (b) Each plan adopted or revised pursuant to this
88 subsection shall be inspected ~~must be reviewed~~ and approved by
89 the Office of Drug Control and the Department of Law Enforcement
90 based solely upon the standards as set under the Maritime
91 Transportation Security Act as revised July 2003 Title 33, Part
92 105, section 105.305 and the statewide minimum standards
93 established pursuant to subsection (1). All such seaports shall
94 allow unimpeded access by the Department of Law Enforcement to
95 the affected facilities for purposes of plan or compliance
96 inspections or other operations authorized by this section.

97 (c) Each seaport security plan shall ~~may~~ establish
98 unrestricted and restricted access areas within the seaport
99 consistent with the requirements of the statewide minimum
100 standards and the provisions of s.311.111. In such cases, a
101 Uniform Port Access Credential Card, authorizing restricted-area
102 access, shall be required for any individual working within or
103 authorized to regularly enter a restricted access area and the
104 requirements in subsection (3) relating to criminal history
105 checks and employment restrictions shall be applicable only to
106 employees or other persons working within or authorized to
107 regularly enter a restricted access area. Every seaport security
108 plan shall set forth the conditions and restrictions to be
109 imposed upon others visiting the port or any restricted access
110 area sufficient to provide substantial compliance with the
111 statewide minimum standards. As determined by the seaport
112 director's most current quarterly risk assessment report, any
113 restricted area with a potential human occupancy of 50 persons or
114 more, cruise terminal or business operation that is adjacent to
115 an unrestricted public access area shall be protected from the

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116 most probable and creditable terrorist threat to human life by
117 the use of like or similar standards as set forth in United
118 States Department of Defense Antiterrorism Standard for
119 Buildings, Unified Facilities Criteria 4-010-0.

120 (d) Within 30 days after the completion of the seaport's
121 security plan inspection by the Florida Department of Law
122 Enforcement, it shall be delivered to the United States Coast
123 Guard, Regional Domestic Security Task Force and the Domestic
124 Security Oversight Council.

125 (e) It is the intent of the Legislature that Florida's
126 seaports adhere to security practices that are consistent with
127 risks assigned to each seaport through the risk assessment
128 process established in this section, therefore, the Florida
129 Department of Law Enforcement shall inspect every seaport within
130 the state to determine if all security measures adopted by the
131 seaport are in compliance with the standards set forth in this
132 chapter and shall submit the department's findings in a report
133 within 30 days of the inspection to the Domestic Security
134 Oversight Council for review and the United States Coast Guard
135 for review with requests to the Coast Guard for any necessary
136 punitive action.

137 (f) Notwithstanding the provisions of chapter 120, a
138 seaport may appeal the findings relating to s. 311.12 in any
139 Florida Department of Law Enforcement inspection report to the
140 Domestic Security Oversight Council for review and mediation.
141 The Domestic Security Oversight Council will establish a review
142 process and may only review those findings under s. 311.12 that
143 are in specific dispute by the seaport. In reviewing the
144 disputed findings, the council may concur with the department,

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145 concur with the seaport, or recommend corrective action to the
146 seaport. Findings of the council are considered final.

147 (4)(b) The Office of Drug Control and the Commissioner,
148 Department of Law Enforcement may modify or waive any physical
149 facility or other requirement contained in the statewide minimum
150 standards for seaport security upon a finding or other
151 determination that the purposes of the standards have been
152 reasonably met or exceeded by the seaport requesting the
153 modification or waiver. Alternate means of compliance may not in
154 anyway diminish the safety or security of the seaport and shall
155 be verified through an extensive risk analysis preformed by the
156 port director. Waivers shall be submitted in writing with
157 supporting documentation to the Office of Drug Control and the
158 Department of Law Enforcement. The Office of Drug Control and the
159 Department of Law Enforcement shall have 90 days to jointly grant
160 the waiver or reject the waiver in whole or in part. Waivers not
161 granted within 90 days or jointly rejected shall be submitted by
162 the seaport to the Domestic Security Oversight Council for
163 consideration. The Domestic Security Oversight Council shall
164 grant the waiver or reject the waiver in whole or in part. The
165 decision of the Domestic Security Oversight Council shall be
166 considered final. Waivers submitted for standards as set forth
167 in F.S. 311.122 may not be granted for percentages below 10
168 percent. Such modifications or waivers shall be noted in the
169 annual report submitted by the Department of Law Enforcement
170 pursuant to this subsection.

171 Section 3. Subsection (7) is added to section 311.12,
172 Florida Statutes, to read:

173 311.12 Seaport security standards.--

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174 (7) It shall be a misdemeanor of the first degree
175 punishable under s. 790.25 for any person other than active duty
176 certified federal and state law enforcement personnel to have in
177 their possession or in a vehicle in their possession, a concealed
178 weapon, while on seaport property in a designated restricted
179 area.

180 Section 4. Subsection (8) of section 311.12, Florida
181 Statutes, is created to read:

182 (8)(a) Commencing on January 15, 2007 and every five years
183 thereafter a review of the statewide minimum standards for
184 seaport security as contained in s. 311.12(1)(a) shall be
185 performed under the Office of Drug Control within the Executive
186 Office of the Governor as set forth below.

187 (b) The Office of Drug Control shall convene a Seaport
188 Security Standards Advisory Council as defined in F.S. 20.03 to
189 review the statewide minimum standards for seaport security for
190 applicability to current narcotics and terrorism threats to
191 Florida's seaports. All sources of information allowed by law
192 shall be used in assessing the applicability of the standards.

193 (c) The Seaport Security Standards Advisory Council shall
194 be chaired by a designee from the Office of Drug Control and the
195 members shall consist of the following: two Seaport Directors
196 appointed by the Governor; two Seaport Security Directors
197 appointed by the Governor; one designee from the Department of
198 Law Enforcement; the Department of Transportation Director Office
199 of Motor Carrier Compliance; a designee from the Attorney
200 General's Office; one designee from the Department of
201 Agriculture; one designee from the Office of Trade, Tourism and
202 Economic Development and as an ex-officio members representatives

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203 from the United States Coast Guard. Members shall serve for a
204 term of 5 years.

205 (d) Seaport Security Standards Advisory Council members
206 shall serve without pay; however, state per diem and travel
207 allowances may be claimed for attendance of officially called
208 meetings as provided by s. 112.061.

209 (e) The Seaport Security Standards Advisory Council shall
210 meet upon the call of the chair and at least once every five
211 years. Recommendations and findings of the Council shall be
212 delivered to the Governor, the Speaker of the Florida House of
213 Representatives, and the President of the Florida Senate.

214 Section 5. Section 311.121, Florida Statutes, is created to
215 read:

216 311.121 Qualifications, training, and certification of
217 licensed security officers at Florida seaports.—

218 (1) It is the intent of the Legislature that seaports in
219 this state be able to mitigate operational security costs without
220 reducing security levels, by employing a combination of certified
221 law enforcement officers and certified private security service
222 officers. The Florida Department of Law Enforcement shall adhere
223 to this intent in the approval and certification process for
224 seaport security required under s. 311.12.

225 (2) The authority or governing board of each seaport
226 identified under s. 311.098 which is subject to the statewide
227 minimum seaport security standards established in s. 311.12,
228 shall require that a candidate for certification as a seaport
229 security officer:

230 (a) Have received a Class D license as a security officer
231 under chapter 493;

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(b) Have successfully completed the certified training curriculum for a Class D license or have been determined to have the equivalent experience, established by rule, by the Department of Agriculture and Consumer Services; and

(c) Have completed the training or training equivalency and testing process established by this section for becoming a certified seaport security officer.

(3) (a) The Seaport Security Officer Qualification, Training and Standards Coordinating Council is hereby created under the Florida Department of Law Enforcement.

(b) The Commissioner of the Florida Department of Law Enforcement will appoint 12 members to the council which shall include the Seaport Administrator of the Department of Law Enforcement, the Chancellor of the Community College System, the Director of the Division of Licensing of the Department of Agriculture and Consumer Services, the Administrator of the Florida Seaport Transportation and Economic Development Council, two seaport security directors from seaports designated under s. 311.09, one director of a state law enforcement academy, one representative of a local law enforcement agency, two representatives of contract security services, one representative of the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles, and one representative of the United States Coast Guard.

(c) Members holding specified positions shall serve for the duration of their employment or appointment.

(d) Other representative members shall serve 4 year terms, except the initial appointment for the representative of a local law enforcement agency, one representative of a contract security

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261 agency, and one seaport security director from a seaport
262 designated in s. 311.09, will be 2 years.

263 (e) Council members shall serve without pay; however, state
264 per diem and travel allowances may be claimed for attendance of
265 officially called meetings as provided by s. 112.061.

266 (f) The council shall identify the qualifications, training
267 and standards regarding seaport security officer certification
268 and recommend a curriculum for the seaport security officer
269 training program which includes no less than 218 hours of initial
270 certification training, and which conforms to or exceeds model
271 courses approved by the Federal Maritime Act under Section 109 of
272 the Federal Maritime Transportation Security Act of 2002 for
273 facility personnel with specific security duties.

274 (g) The council may recommend training equivalencies that
275 may be substituted for portions of the required training.

276 (h) The council shall recommend a continuing education
277 curriculum of no less than 8 hours of additional training per
278 each annual licensing period.

279 (i) The Chancellor of the Community College System shall
280 serve as chair of the council.

281 (j) The council shall meet upon the call of the chair, and
282 at least once a year to update or modify curriculum
283 recommendations.

284 (4) (a) The Department of Education shall develop the
285 curriculum recommendations and hourly specifications of the
286 Seaport Security Officer Qualifications, Training, and Standards
287 Coordinating Council into initial and continuing education and
288 training programs for seaport security officer certification.

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289 (b) Such training programs shall be used by schools
290 licensed under s. 493.6304, and each instructor providing
291 training must hold a Class D license pursuant to s. 493.6301.

292 (c) A seaport authority or other organization involved in
293 seaport-related activities may apply to become a school licensed
294 under s. 493.6304.

295 (d) The training programs shall include proficiency
296 examinations to be administered and passed by each certification
297 candidate who successfully completes the required hours of
298 training or provides proof of authorized training equivalencies.

299 (e) A certification candidate must be provided with the
300 list of authorized training equivalencies in advance of training,
301 however, the candidate must successfully complete 20 hours of
302 study specific to Florida Maritime Security and pass the related
303 portion of the proficiency exam.

304 (5) Seaport security officer certificates shall be provided
305 by the Department of Agriculture and Consumer Services for
306 issuance by a school licensed under s. 493.6304 and such school
307 may issue the certificate to an applicant who has successfully
308 completed the training program. A school shall notify the
309 Division of Licensing within the department upon the issuance of
310 each certificate. The notification must include the name and
311 Class D license number of the certificate holder and a copy of
312 the certificate. The department shall place the notification
313 with the licensee's file. Notification may be made through an
314 electronic or paper format pursuant to instruction of the
315 Department of Agriculture and Consumer Services.

316 (6) (a) Upon completion of the certification process, a
317 person holding a Class D license must apply for a revised license

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318 pursuant to s. 493.6107(2), which license shall state that the
319 licensee is certified as a seaport security officer.

320 (b) A person who has been issued a seaport security officer
321 certificate is authorized to perform duties specifically required
322 of a seaport security officer.

323 (c) The certificate is valid for the duration of the
324 seaport security officer's Class D license and shall be renewed
325 upon renewal of that license.

326 (d) The certificate will become void if the seaport
327 security officer's Class D license is revoked or allowed to lapse
328 for more than 1 year, or if the certificate holder licensee fails
329 to complete the annual continuing education requirement prior to
330 expiration of the Class D license.

331 (e) Renewal of certification following licensure revocation
332 or a lapse of longer than 1 year requires, at a minimum, 20 hours
333 of recertification training and reexamination of the applicant.

334 Section 6. Section 311.122, Florida Statutes, is created to
335 read:

336 311.122 Seaport Law Enforcement Agency; authorization;
337 requirements; powers; training.--

338 (1)(a) Each seaport in the state is authorized to create a
339 Seaport Law Enforcement Agency for its facility, which authority
340 in no way removes the ability of the seaport to contract with
341 local governments or law enforcement agencies to comply with the
342 security standards required by this chapter.

343 (b) Each Seaport Law Enforcement Agency shall meet all of
344 the standards set by the state under certified law enforcement
345 guidelines and requirements and be certified as defined in s.
346 943, F.S.

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347 (c) Regardless of origin, a minimum of thirty percent of
348 each Seaport Law Enforcement Agency shall be sworn state
349 certified law enforcement officers with additional Maritime
350 Transportation Security Act seaport training; a minimum of thirty
351 percent of on-duty personnel shall be sworn state certified law
352 enforcement officers with additional Maritime Transportation
353 Security Act seaport training; and at least one on-duty
354 supervisor must be a sworn state certified law enforcement
355 officer with additional Maritime Transportation Security Act
356 seaport training.

357 (d) For the purposes of this chapter where applicable
358 Seaport Law Enforcement Agency officers shall have the same
359 powers as university police officers as provided in s. 1012.97,
360 F.S.; however, such powers do not extend off seaport property
361 except in connection with an investigation initiated on seaport
362 property or in connection to an immediate, eminent threat to the
363 seaport.

364 (e) For the purposes of this chapter, sworn state
365 certified seaport security officers shall have the same traffic
366 law enforcement powers as university, community college and
367 airport police officers have under the provisions of s.
368 316.640(1)(I)-(II), F.S., with respect to seaport property.

369 (f) Certified seaport security officers shall have the
370 authority to immediately tow any vehicle parked illegally as
371 designated by pre-posted signs or during an emergency as deemed
372 necessary to maintain seaport security.

373 Section 7. Section 311.123, Florida Statutes, is created to
374 read:

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375 311.123 Maritime domain security awareness training
376 program.--

377 (1) The Florida Seaport Transportation and Economic
378 Development Council, in conjunction with the Florida Department
379 of Law Enforcement and the Office of Drug Control within the
380 Executive Office of the Governor, shall create a maritime domain
381 security awareness training program to instruct all personnel
382 employed within a seaport's boundaries about the security
383 procedures required of them for implementation of the seaport
384 security plan.

385 (2) The training program curriculum must include security
386 training required pursuant to 33 C.F.R. Part 105 and must be
387 designed to enable the seaports in this state to meet the
388 training, drill, and exercise requirements of 33 C.F.R. Part 105
389 and individual seaport security plans, and to comply with the
390 requirements of s. 311.12 relating to security awareness.

391 Section 8. Section 311.124, Florida Statutes, is created to
392 read:

393 311.124 Trespassing; detention by a certified seaport
394 security officer.--

395 (1) Any Class D or G seaport security officer certified
396 under the Maritime Transportation Security Act guidelines or any
397 employee of the seaport security force certified under the
398 Maritime Transportation Security Act guidelines, who has probable
399 cause to believe that a person is trespassing pursuant to the
400 provisions of sections 810.08, 810.09, and this chapter, in a
401 designated restricted area pursuant to s. 311.06 [shall] [is
402 authorized to] detain such person in a reasonable manner for a
403 reasonable time pending the arrival of a law enforcement officer,

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404 and such action shall not render the security officer criminally
405 or civilly liable for false arrest, false imprisonment, or
406 unlawful detention.

407 (2) Upon detaining a person for trespass, the security
408 officer shall immediately call a certified law enforcement
409 officer to the scene.

410 Section 9. Section 817.021, Florida Statutes, is created to
411 read:

412 817.021 It shall be a felony of the third degree punishable
413 under s. 775.082 and s. 775.083, to willfully and knowingly
414 provide false information in an attempt to or in obtaining a
415 seaport security identification card.

416 Section 10. This act shall take effect July 1, 2006.